

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ALDO VERA, JR., as Personal Representative of  
the Estate of Aldo Vera, Sr.,

Plaintiff,

v.

THE REPUBLIC OF CUBA,

Defendant,

v.

COMMERZBANK AG,

Garnishee.

12 Civ. 1596 (AKH)

ECF Case

Document Electronically Filed

**COMMERZBANK AG'S RESPONSE TO PLAINTIFF'S MOTION  
TO JOIN JUDGMENT CREDITORS TO TURNOVER MOTION**

Garnishee Commerzbank AG ("COBA") respectfully submits this response to plaintiff's motion to join judgment creditors to plaintiff's turnover motion against COBA.

**FACTUAL BACKGROUND**

On March 15, 2013, plaintiff filed an uncontested motion for the turnover (the "Motion for Turnover") of certain assets, totaling approximately \$5,228,709.30, plus accrued interest, that plaintiff alleges the Republic of Cuba or its agencies or instrumentalities have an interest in. (DE 107.) On the same day, judgment creditors (the "Villoldo Petitioners") in an action captioned *Alfredo Villoldo, et al. v. Fidel Castro, et al.* (S.D.N.Y. 11-cv-9394, Swain, J.) (the "Villoldo Action") filed a notice of petition for turnover order. (Villoldo Action DE 37.) The Villoldo Petitioners seek the turnover of three wire transfers that are blocked at COBA pursuant to regulations promulgated by the United States Department of Treasury Office of Foreign

Assets Control (“OFAC”). (*Id.*)<sup>1</sup> Each of those wire transfers is also the subject of the plaintiff’s Motion for Turnover in this action.

### **RESPONSE**

COBA is supportive of one court hearing the claims of both plaintiff and the Villoldo Petitioners to determine which party has a priority interest in the assets that both parties seek to be turned over. COBA is aware of no facts that would cause the Villoldo Petitioners to have priority over the plaintiff to the three wire transfers at issue. COBA ultimately requests an order from the Court that will order it to turn over the blocked assets to the party that establishes a right to those funds, avoiding the possibility that COBA be subject to inconsistent judgments or to double liability, and releasing it from any and all liability to the party that does not receive the funds with respect to those funds that are turned over to another judgment creditor of the Republic of Cuba.

On or about March 18, 2013, this Court entered an order endorsing the proposed notice procedures that plaintiff proposed in a letter dated February 28, 2013. (DE 122.) Given that plaintiff served counsel for the Villoldo Petitioners with its Motion for Turnover on March 18, 2013, the Villoldo Petitioners must appear and submit any opposition to the Motion for Turnover on or before April 1, 2013. (*See id.*) In response to the Villoldo Petitioners’ petition for turnover order, COBA will inform Judge Swain that this Court has exerted jurisdiction over the *res* at issue in both actions and that this Court has required the Villoldo Petitioners to appear in this action to oppose the Motion for Turnover. COBA respectfully requests that the turnover of the blocked assets in question be adjudicated in a single forum.

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<sup>1</sup> Although the account numbers and dollar value for these three wire transfers are not publicly available on the docket due to OFAC regulations and a protective order entered in the Villoldo Action, it is apparent from the publicly-filed version of the petition that the Villoldo Petitioners seek the turnover of wire transfers.

Dated: New York, New York  
March 20, 2013

**GIBBONS P.C.**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of March, 2013, I served a true and correct copy of the foregoing Commerzbank AG's Response to Plaintiff's Motion to Join Judgment Creditors to Turnover Motion, via e-mail and first-class mail, upon:

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s/ Paul A. Saso  
Paul A. Saso